IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO.518 OF 1996

Bank of India ...Plaintiffs

Versus

Himansu Anil Mapara ...Defendants

Shri O.A.Das for the Plaintiffs.

CORAM : ABHAY S.OKA, J.
DATED : SEPTEMBER 13, 2007.

ORAL JUDGMENT:

1. Affidavit of service of writ of summons to the Defendant has been filed. In the said affidavit it is disclosed that the writ of summons has been duly served to the Defendant by the bailiff attached to the office of Sheriff, Bombay.

2. The record shows that the Defendant has not entered appearance within the time stipulated by law. The Plaintiffs have placed on record the application submitted by the Defendant, office copy of the demand notice dated 07th December, 1995 and a copy of extract of the account of the Defendant. In view of the sub-rule 3 of rule 2 of Order XXXVII of the Code of Civil Procedure, 1908 the averments in the plaint shall be deemed to have been admitted by the Defendant.

3. The Plaintiffs have prayed for interest on the principal amount at the rate of 2.5% per month with monthly rests. Considering the facts of case, the interest will have to be fixed at the rate of 12% per annum.

4. Hence, the suit is decreed in terms of prayer clauses (a) and (b) with a modification that interest payable on sum of Rs.1,50,424.45/- shall be at the rate of 12% per annum from the date of institution of the suit till realisation or payment.

5. The Plaintiffs are entitled to refund of court fees, if any, as per the rules.

6. Certified copy is expedited.

JUDGE